

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:06CV239

**REHABCARE GROUP EAST, INC.,)
d/b/a REHABCARE GROUP)
THERAPY SERVICES, INC., a)
Delaware corporation,)
)
Plaintiff,)**

Vs.)

**MEMORANDUM AND
ORDER**

**BROOKWOOD VICTORIA HEALTH)
CARE CENTER, LLP, d/b/a)
MAGNOLIA HEALTH CARE CENTER,)
a North Carolina limited liability)
partnership,)
)
Defendant.)**

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed July 11, 2007.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On July 11, 2007, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding Plaintiff's motion for summary judgment. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation; the period within which to file objections expired on July 30, 2007. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Plaintiff's motion for summary judgment be allowed as to the breach of contract claim and that the Plaintiff is deemed to have abandoned its remaining claims. The issue of attorneys' fees will be decided upon filings made by the parties.

IT IS, THEREFORE, ORDERED that Plaintiff's motion for summary judgment is **ALLOWED** as to the Plaintiff's claim for breach of contract.

IT IS FURTHER ORDERED that the Plaintiff's remaining claims are hereby **DISMISSED WITH PREJUDICE**. Judgment is entered herewith.

IT IS FURTHER ORDERED that any motion for attorneys' fees, along with supporting materials, shall be filed within 20 days from entry of the Judgment.

Signed: August 14, 2007

A handwritten signature in black ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

